

Amendment Under 37 C.F.R. §1.111
Application No. 10/692,722
Attorney Docket No. 032045

REMARKS

Claims 1-2, 4-12, 14-17, 19 and 21-28 are pending in the present application. Claims 3, 13, 18 and 20 have been cancelled herein without prejudice or disclaimer. Claims 1, 10, 17 and 19 have been amended herein. Claim 1 has been amended to include the limitation of claim 3. Claim 10 has been amended to include the limitation of claim 13. Claim 17 has been amended to include the limitation of claim 18. Claim 19 has been amended to include the limitation of claim 20. Claims 27-28 have been added herein. Support for the new claims is based on original claims 1 and 10.

Applicants' undersigned representative thanks Examiner Chacko-Davis for the courtesies extended during the interview of October 10, 2006. Applicants' separate record of the substance of the interview is set forth below.

Applicants' Response to Claim Rejections under 35 U.S.C. §102(e)

Claims 1-2, 4-6, 9-12, 14, and 17-22, stand rejected under 35 U.S.C. 102(e) as being anticipated by U. S. Patent No. 6,579,808. As noted above, applicants have incorporated dependant claims 3 and 13 into claims 1 and 10 respectively. Wherefore, applicants submit that the rejection of these claims and their dependent claims under §102(e) is now moot.

In regard to claims 17 and 19, applicants have incorporated the limitations of respective dependent claims 18 and 20. These limitations recite that the mixture gas further comprises an O₂ gas. As discussed in the course of the interview, Cho does not teach the use of O₂ for any described embodiment, but is only referring to the O₂ discussed in the prior art section of the

reference at col, 3 lines 61-62. See also col. 1, lines 60-64. Hence, there is no teaching in Cho of utilizing O₂ in the first etch gas of SO₂ and He. Wherefore, applicants respectfully submit that Cho does not anticipate amended claims 17 and 19 as it fails to teach each and every limitation of the claimed invention. Wherefore, applicants respectfully request favourable reconsideration.

Applicants' Response to Claim Rejections under 35 U.S.C. §103(a)

Claims 3, 7-8, 13, and 15-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,579,808 in view of U. S. Patent No. 6,187,688 (Ohkuni et al). As noted above, applicants have incorporated the limitations of claims 3 and 13 into base claims 1 and 10, respectively. Applicants respectfully traverse on the basis that one of skill in the art does not have motivation to combine Cho and Ohkuni. The Office Action relies on Ohkuni's disclosure at col. 15, lines 28-32 and Table 13 as suggesting the flow rate of the first gas and the flow rate of the SO₂ gas are about equal. See page 4, lines 1-3 of the Office Action. This disclosure of Ohkuni is directed to a flow rate for a gas mixture of SO₂ and O₂. However, as noted in the course of the interview, and discussed above, Cho does not teach the use of O₂, but only an etching gas of SO₂ and He.

Applicants respectfully submit that there is no technical basis which would provide the skilled artisan with motivation to combine the flow rate of Ohkuni and the gas mixture of Cho. Cho is directed to a distinct gas mixture from that of Ohkuni. The skilled artisan would not have a reasonable expectation of success in applying the flow rate of Ohkuni to the gas mixture of Cho. He and O₂ have distinct features and properties as gases. The skilled artisan would not

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expect a flow rate beneficial to one of the gases to be equally beneficial to the other given their different characteristics as gases and elements. Wherefore, applicants respectfully submit that one of skill in the art would not be motivated to combine Cho and Ohkuni to reach the present invention.

Claims 23-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,579,808 (Cho et al., hereinafter referred to as Cho) in view of U. S. Patent Application Publication No. 2003/0134231 (Tsai et al., hereinafter referred to as Tsai). As these rejections depend from the rejection of the independent claims, by addressing the rejections as discussed above, the rejections of claims 23-26 under §103 are likewise addressed by nature of the claims' dependencies.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read "Michael J. Caridi", is written over the printed name.

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